IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO : 3054 of 2005

Between:

1 D.Narayana Raju S/o.Late D.S.Tata Raju
R/o.H.No.2-27/2 Opp.Uppal Bus Depot
Hyderabad.
2 Nadimpalli Kedareswara Raju, S/o Jogi Raju
R/o.H.No.2-27/2 Opp.Uppal Bus Depot
Hyderabad.
3 Nadimpalli Laxmipathi Raju So.Jogi Raju
R/o.H.No.2-27/2 Opp.Uppal Bus Depot
Hyderabad.

..... PETITIONER(S)

AND

1 The State of Andhra Pradesh, Department of Revenue, Secretariat,
Saifabad, Hyderabad, Represented by the Principal Secretary.
2 The District Collector, East Godavari District, Kakinada.
3 The Revenue Divisional Officer, Amalapuram, East Godavari District.
4 The Mandal Revenue Officer, Ravulapalem, East Godavari District.
5 The Assistant Director, Survey and Land Records, Kakinada, East Godavari District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or other appropriate order or direction in the nature of a writ directing the respondents to take immediate action to survey the land in Survey No.71/1 old etc., in Ubalanka Village, Ravulapalem Mandal, East Godavari District take action as per law for cancellation of lease orders with respect to the land of the petitioners and restore the land to the petitioners after declaring the impugned action in not taking emergent action as aforesaid is arbitrary, discriminatory and violative of

fundamental rights of the petitioners and pass such other or further orders as this Hon'ble Court may deem fit and proper in the interest of justice.

Counsel for the Petitioners:MR.B.NALIN KUMAR

Counsel for the Respondents: GP FOR REVENUE

The Court at the stage of admission made the following:

ORDER:

Petitioners claim that various extents of land held by them in Survey No.71/1 (old) in Ubalanka Village, Ravulapalem Mandal, East Godavari District, at one point of time, were submerged in floods and thereafter, the lands surfaced. According to them, survey was not conducted to enable them to enjoy the possession of the lands after the lands surfaced. They filed W.P.No.6765 of 2000 seeking necessary relief. The writ petition was disposed of directing the respondents to take necessary steps. For implementation of the order passed in the writ petition, C.C.No.726 of 2002 and thereafter, C.C.No.12 of 2003 were filed. The result is that the respondents have issued proceedings directing restoration of possession of land to the petitioners.

The present complaint is that taking advantage of the dispute as to boundaries and the absence of the petitioners herein, the lands are being enjoyed by the third parties. So much so, the respondents have granted leases in favour of the members of the Jawahar CCF Society, Ubalanka. This writ petition is filed seeking a direction to the respondents to take necessary steps to survey the land in Survey No.71/1 (old) and to cancel the leases, if any, granted in respect of the land in favour of the third parties.

Heard learned counsel for the petitioners and the learned Government Pleader for Revenue.

A perusal of the order passed by this Court in W.P.No.6765 of 2000, dated 26.03.1002, as well as the subsequent proceedings initiated by the respondents, discloses that the ownership of the petitioners over the land referred to above was recognized. The petitioners were delivered possession through panchanama. The petitioners contend that though a paper delivery was effected under the threat of contempt, the land is under occupation of the third parties on the strength of leases granted by the respondents. A perusal of the letter, dated 03.08.2004 addressed by the District Collector to the Revenue Divisional Officer, and the reply, dated

30.09.2004, by the Revenue Divisional Officer, discloses that proceedings were initiated for cancellation of the pattas in respect of the land belonging to the petitioner.

Once it had emerged that the petitioners were delivered possession, be it symbolic or otherwise, there does not exist any basis or justification for the respondents to grant or continue leases in respect of the said land in favour of the third parties. Even where any leases are granted over the neighbouring lands, the respondents are under obligation to demarcate the lands of the petitioners, so that the respective parties can enjoy the possession of the lands without any dispute.

For the foregoing reasons, the writ petition is disposed of, directing that-

a. The respondents shall undertake and complete survey and demarcation of the land in Survey No.71/1 (old) of Ubalanka Village, within a period of two months from today, duly following the procedure prescribed in law.

b. If it emerges that there exist any leases in respect of the land of the petitioners after such demarcation, the respondents shall take necessary steps to cancel the leases, within a period of four weeks from completion of the survey, and on such cancellation, the lessees shall not have any right over the land in question.

c. There shall be no order as to costs

09.03.2005

Jsu

To

1 The Principal Secretary, State of Andhra Pradesh, Department of Revenue, Secretariat, Saifabad, Hyderabad.
2 The District Collector, East Godavari District,
Kakinada.
3 The Revenue Divisional Officer, Amalapuram,
East Godavari District.
4 The Mandal Revenue Officer, Ravulapalem, East Godavari District.
5 The Assistant Director, Survey and Land Records, Kakinada, East Godavari District.

6 Two CCs to the Government Pleader for Revenue, A.P.High Court Buildings, Hyderabad. (OUT).

7 Two CD copies.